

**Juvenile Justice Improvement Committee**  
Judicial Conference of Indiana

**Minutes**  
March 4, 2005

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana met at the Indiana Judicial Center on Friday, March 4, 2005 from 12:00 noon until 3:00 p.m.

1. Members present. Robert R. Aylsworth, John Jay Boyce, W. Timothy Crowley, Richard A. Dailey, Steve David, Brett J. Niemeier, Daniel Lee Pflum, Charles F. Pratt, and Mary R. Harper, chair.
2. Staff present. Jeffrey Bercovitz and Anne Jordan provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on February 4, 2005 were approved.
4. Guests present. Cathy Boggs, Interim Director, and Katherine Gregory, legal counsel, Division of Mental Health and Addiction; and James W. Payne, Director, Department of Child Services.
5. Administrative Rule 9 - Confidentiality.
  - a. Jeffrey Bercovitz discussed an email from Ron Miller generally approving the suggested frequently asked questions prepared by Magistrate Deborah Domine after the last meeting.
  - b. Judge Pflum and Jeffrey Bercovitz agreed to revise the format of the frequently asked questions prepared by Magistrate Domine, focusing on delinquency files which may be open in certain felony and misdemeanor cases.
6. Discussion with Cathy Boggs Members of the committee discussed their concerns about Incompetent to Stand Trial (ICST) juveniles at her request.
  - a. How to handle developmentally disabled children who have gotten into very serious trouble, and who can diagnose the disability. Where can these children be placed? Will these children ever become competent? Developmentally disabled children are a different population than those with mental health problems.
  - b. Should the criminal law pattern of confinement for adults be followed in the juvenile area? There is no separate ICST statute for juveniles.
  - c. Should a CHINS action, Article 7 education program, or a **Collins** case type placement with the Medicaid Early Periodic Screening Diagnostic and Treatment (EPSDT) program and Children's Psychiatric Residential Treatment Fund (CPRTF), be used for ICST juveniles?
  - d. These cases are not seen too often so it is difficult to develop procedures for them.
  - e. Should OFC, Department of Education or local counties pay for ICST juveniles?
  - f. Restoration of competency services is needed for those juveniles who can be restored to competency.
  - g. A standard assessment tool for ICST juveniles is needed.
  - h. DOC, DOE, FSSA, DCS and Medicaid are needed at the table to encourage the executive branch to look at this problem.
  - i. Courts need guidance on handling ICST cases. Judge David agreed to chair a subcommittee to discuss this issue with Judge Dailey, Judge Harper and Judge Pratt.

7. Presentation by Judge Payne.

a. Judge Payne, Director, Department of Child Services, reviewed SB 529 with members of the committee. Its reorganization plan for the Department of Child Services includes child support, child protection services, adoption, foster care, and independent living. Other programs will also be added in order to have prevention, intervention and treatment services for juveniles in the same agency.

b. Judge Payne reported Indiana's child support income withholding is not compliant with federal mandates. A fix is needed in income withholding orders. He will attend the Domestic Relations Committee meeting on March 18, 2005.

c. The Children's Psychiatric Residential Treatment Funds of 92 counties collected \$16 million dollars last year. Only \$1 million was spent. Judge Payne advised counties to wait until March 31 before paying their DOC bill for delinquent placements in order to have a correct amount of monies used by the fund to pay the bill.

d. There were 29 counties requesting excess levies this year and 41 projected for next year. SB 529 contains a fix according to Judge Payne, permitting the local county director and juvenile court to set the local tax levy for funding, with review and approval by the Director of the Department of Child Services.

e. Judge Payne requested juvenile courts add to the Preliminary Inquiry financial information for the eligibility determination for Title IV-E funding.

f. There is discussion at the executive branch about the appointment of attorneys for local offices of family and children on a regional basis. Some favor appointment by the Governor, and others favor making them deputy attorney generals.

g. Judge Payne asked to try not to schedule hearings during the June and September judicial education programs in order to train Department of Child Services personnel. He asked for one day during the June conference but had no preference on which day.

The committee noted this would still permit delinquency cases to be heard. They said most have some kind of pro tem for the court during the juvenile conference.

Judge Payne also asked to try not to schedule two days during the September conference. He is planning a two-day training by the National Association of Counsel for Children for OFC attorneys. Again, he had no preference on which two days in September. This would only be for the OFC attorneys.

Committee members discussed generally they had pro tems anyway in June.

h. Judge Payne reported consistency is a big problem with caseworkers and attorneys. Reports and pleadings do not look the same across county lines. He asked for any thoughts from committee members about this topic. This impacts receipt of federal monies at the state and local levels.

i. Judge Payne encouraged local judges to invite him to meet on a local basis.

8. Annual meeting of juvenile court judicial officers.

a. Anne Jordan distributed a list of topics for the annual meeting of juvenile court judicial officers on June 23-24, 2004 at the Brown County Inn in Nashville Indiana.

b. Committee members agreed it was too early to do the mental health topics. Members of the committee members wanted practical information and forms, which would help them immediately. They expressed interest in brain development and detention issues.

9. Recent legislation. Committee members discussed the following bills: House Bills 1038, 1197, 1198, 1217, 1567, 1696, 1699, 1743 and Senate Bills 175, 340, 422, 481, and 569. Judge Pratt reported the committee's support of SB 340, which provides when a motion to dismiss a CHINS petition is filed by OFC, a statement must be given including the reasons for the

dismissal, to the author. They agreed some house bills, which did not get out of their house of origin, would be amended into Senate bills.

10. Other.

a. An ABA survey distributed by the CIP program and information about a Child Abuse Conference was distributed to committee members.

b. Jeffrey Bercovitz distributed recent newspaper articles concerning juveniles to members of the committee.

11. Next meeting dates. Committee members agreed to meet again on the following dates: May 6, June 3, October 7, and November 4, 2005 from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director  
Juvenile and Family Law